

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed February 6, 2009. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

1. Response to Rejection of Claims under 35 U.S.C. § 101

Claims 1-9 and 11 have been rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. The Office Action states that "Claim 1 and as recited do not act upon a physical object so as to provide a transformation of that object into a different state or thing." Page 3.

In response, Applicants point out that the Federal Circuit has stated that the proper test for patent-eligibility of processes is a machine-or-transformation test. Under the machine-or-transformation test, "[a] claimed process is surely patent-eligible under § 101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing." *In re Bilski*, No. 2007-1130 (Fed. Cir. Oct. 30, 2008). *Bilski* further opines that "claim 1 does not involve the transformation of any physical object or substance, or an electronic signal representative of any physical object or substance" as support for its rejection of the claim at issue in the case.

Applicants' claim 1 recites "simulating activities of the plurality of creatures at a first mode of simulation observable by a user, wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation; and simulating an activity of one of the plurality of creatures at the second mode of simulation observable by the user, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation." Applicants note that "plurality of creatures" is representative of a physical object whose electronic representation is being transformed from one mode of simulation into another mode of simulation. Accordingly, claim 1 is surely patent-eligible under § 101, since the claimed process transforms a particular article into a different state or thing.

Therefore, Applicants respectfully submit that the rejection should be withdrawn and that the pending claims 1-9 are in condition for allowance. Independent claim 11 satisfies the requirements of § 101 for at least similar reasons.

2. Response to Rejection of Claims under 35 U.S.C. § 102

Claims 1-11 have been rejected under 35 U.S.C. § 102(b) as being anticipated by *Starcraft* (Starcraft Game Manual by Blizzard). Applicants respectfully traverse this rejection.

a. Claim 1

As provided in independent claim 1, Applicants claim:

A method of simulating the activities of a plurality of creatures, the method comprising:

simulating activities of the plurality of creatures at a first mode of simulation observable by a user, wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation; and

simulating an activity of one of the plurality of creatures at the second mode of simulation observable by the user, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation,

wherein said second mode of simulation is utilised in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, the second mode being utilised to simulate the activity of said one or more of said plurality of creatures undergoing the change in environment.

(Emphasis added).

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Starcraft* does not disclose, teach, or suggest at least "simulating an activity of one of the plurality of creatures at the second mode of simulation observable by the user, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of

creatures at the first mode of simulation, wherein said second mode of simulation is utilised in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, the second mode being utilised to simulate the activity of said one or more of said plurality of creatures undergoing the change in environment," as emphasized above.

In *Starcraft*, a computer game utilizes a mini-map providing an overview of a location of space vehicle in relation to its distant surroundings, where a main display segment shows the space vehicle in relation to its immediate surroundings. The main display segment is allegedly shown in higher detail than the mini-map display. As such, *Starcraft* fails to use results from one mode of simulation to provide a simulation in another mode, since both simulations run concurrently. Likewise, *Starcraft* does not disclose the main display being utilized in response to a change in environment occurring in the mini-map, since both the main display and the mini-map are displayed concurrently regardless if a change in environment is occurring in the mini-map display. Further, *Starcraft* shows a simulation of an object at a lower resolution in a distant view before the object is shown at a higher simulation in the main display segment. Therefore, even if results of one simulation depended on the other, in *Starcraft*, a result from a high-detailed simulation would not be used to produce a lower-detailed simulation.

For at least these reasons, the cited art fails to teach or suggest "simulating an activity of one of the plurality of creatures at the second mode of simulation observable by the user, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation, wherein said second mode of simulation is utilised in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, the second mode being utilised to simulate the activity of said one or more of said plurality of creatures undergoing the change in environment," as recited in claim 1.

Therefore, claim 1 is patentable over the cited art, and the rejection should be withdrawn.

b. Claims 2-9

Dependent claims 3-9 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims 2-9 contain all the features of allowable independent claim 1. For at least this reason, the rejection of claims 3-9 should be withdrawn.

Additionally and notwithstanding the foregoing reasons for allowability of claims 3-9, these claims recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Accordingly, the rejections to these claims should be withdrawn.

Claim 2 is canceled without prejudice, waiver, or disclaimer, and therefore, the rejection to the claim is rendered moot. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of the canceled claim in a continuing application, if Applicant so chooses, and does not intend to dedicate any of the canceled subject matter to the public.

c. Claim 10

As provided in independent claim 10, Applicants claim:

A recordable medium having recorded thereon computer readable code, wherein the computer readable code is adapted to:

simulate activities of the plurality of creatures at a first mode of simulation observable by a user, wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation; and

simulate an activity of one of the plurality of creatures at the second mode of simulation observable by the user in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment.

(Emphasis added).

Applicants respectfully submit that independent claim 10 is allowable for at least the reason that *Starcraft* does not disclose, teach, or suggest at least to “simulate an activity of one of the plurality of creatures at the second mode of simulation observable by the user in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment,” as emphasized above.

In *Starcraft*, a computer game utilizes a mini-map providing an overview of a location of space vehicle in relation to its distant surroundings, where a main display segment shows the space vehicle in relation to its immediate surroundings. The main display segment is allegedly shown in higher detail than the mini-map display. As such, *Starcraft* fails to use results from one mode of simulation to provide a simulation in another mode, since both simulations run concurrently. Likewise, *Starcraft* does not disclose the main display being utilized in response to a change in environment occurring in the mini-map, since both the main display and the mini-map are displayed concurrently regardless if a change in environment is occurring in the mini-map display. Further, *Starcraft* shows a simulation of an object at a lower resolution in a distant view before the object is shown at a higher simulation in the main display segment. Therefore, even if results of one simulation depended on the other, in *Starcraft*, a result from a high-detailed simulation would not be used to produce a lower-detailed simulation.

For at least these reasons, the cited art fails to teach or suggest to “simulate an activity of one of the plurality of creatures at the second mode of simulation observable by the user in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, wherein results of the simulation at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment,” as recited in claim 10.

Therefore, claim 10 is patentable over the cited art, and the rejection should be withdrawn.

d. Claim 11

As provided in independent claim 11, Applicants claim:

A simulator device arranged to simulate the activities of a plurality of creatures, the device being arranged to utilise at least two modes of simulation: a first mode arranged to:

simulate activities of the plurality of creatures at a first mode of simulation observable by a user, wherein the first mode of simulation is less detailed and less computationally intensive than a second mode of simulation; and

the second mode of simulation arranged to simulate an activity of one of the plurality of creatures observable by the user in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, wherein results at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment.

(Emphasis added).

Applicants respectfully submit that independent claim 11 is allowable for at least the reason that *Starcraft* does not disclose, teach, or suggest at least "the second mode of simulation arranged to simulate an activity of one of the plurality of creatures observable by the user in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, wherein results at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment," as emphasized above.

In *Starcraft*, a computer game utilizes a mini-map providing an overview of a location of space vehicle in relation to its distant surroundings, where a main display segment shows the space vehicle in relation to its immediate surroundings. The main display segment is allegedly shown in higher detail than the mini-map display. As such, *Starcraft* fails to use results from one mode of simulation to provide a simulation in another mode, since both simulations run

concurrently. Likewise, *Starcraft* does not disclose the main display being utilized in response to a change in environment occurring in the mini-map, since both the main display and the mini-map are displayed concurrently regardless if a change in environment is occurring in the mini-map display. Further, *Starcraft* shows a simulation of an object at a lower resolution in a distant view before the object is shown at a higher simulation in the main display segment. Therefore, even if results of one simulation depended on the other, in *Starcraft*, a result from a high-detailed simulation would not be used to produce a lower-detailed simulation.

For at least these reasons, the cited art fails to teach or suggest "the second mode of simulation arranged to simulate an activity of one of the plurality of creatures observable by the user in response to one or more of said plurality of creatures simulated by said first mode undergoing a change in environment, wherein results at the second mode of simulation are used to provide a simulation of the plurality of creatures at the first mode of simulation for the new change in environment," as recited in claim 11.

Therefore, claim 11 is patentable over the cited art, and the rejection should be withdrawn.

CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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